

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

February 23, 2022

Lyle W. Cayce  
Clerk

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No. 21-50836  
Summary Calendar

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

OMERO ROJAS-LEAL,

*Defendant—Appellant,*

CONSOLIDATED WITH

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No. 21-50843

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

BELARMINO LORENZO-LOPEZ,

*Defendant—Appellant.*

No. 21-50836  
c/w No. 21-50843

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Appeals from the United States District Court  
for the Western District of Texas  
USDC No. 4:21-CR-281-1  
USDC No. 4:21-CR-520-1

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Before HIGGINBOTHAM, HIGGINSON, and DUNCAN, *Circuit Judges*.

PER CURIAM:\*

Omero Rojas-Leal appeals his conviction and sentence for illegal reentry into the United States after having been ordered removed, in violation of 8 U.S.C. § 1326(a) and (b)(2), along with the revocation of the terms of supervised release he was serving at the time of the offense. He argues that § 1326(b) is unconstitutional because it allows a sentence above the otherwise applicable statutory maximum based on facts that are neither alleged in the indictment nor found by a jury beyond a reasonable doubt. Because he does not address the validity of the revocation of his terms of supervised release or the sentences imposed upon revocation, he has abandoned any challenge to that judgment. *See Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993).

Rojas-Leal has filed an unopposed motion for summary disposition and a letter brief correctly conceding that the issue is foreclosed by the Supreme Court's decision in *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), and merely seeks to preserve this claim for further review. *See United States v. Pervis*, 937 F.3d 546, 553-54 (5th Cir. 2019). Because summary disposition is appropriate, *see Groendyke Transp., Inc. v. Davis*,

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\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 21-50836  
c/w No. 21-50843

406 F.2d 1158, 1162 (5th Cir. 1969), Rojas-Leal's motion is GRANTED,  
and the judgments of the district court are AFFIRMED.